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ATTORNEYS FOR PLAINTIFF GPNE CORP.

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION**

GPNE CORP.,

Plaintiff,

vs.

APPLE, INC.,

Defendant.

Civil No. 5:12-CV-02885-LHK

JURY TRIAL DEMANDED

**DECLARATION OF BARRY J.
 BUMGARDNER IN SUPPORT OF
 GPNE'S REPLY TO MOTION TO
 COMPEL BASEBAND LOGS, RULE
 30(b)(6) TESTIMONY AND
 SANCTIONS**

I, Barry J. Bumgardner, declare as follows:

1. I am a partner with the firm Nelson Bumgardner Casto, P.C., counsel of record in Case No. 5:12-cv-02885-LHK for Plaintiff GPNE Corp. I am a member of the Bar of the State of Texas and have been admitted *pro hac vice* for this action in this Court. I have personal knowledge of the matters stated in this Declaration and would testify truthfully to them is called upon to do so.

DECLARATION OF BARRY J. BUMGARDNER IN SUPPORT OF GPNE'S REPLY TO MOTION TO COMPEL
 BASEBAND LOGS, RULE 30(b)(6) TESTIMONY AND SANCTIONS
 CIVIL NO. 5:12-CV-02885-LHK

1 2. On Sunday, November 3, 2013, I sent an email to Apple's counsel asking for
2 substantially the same relief ultimately requested in GPNE's motion to compel. I stated in this
3 email that GPNE would be filing a motion to compel later in the week if the situation could not
4 be resolved.

5 3. On November 4, 2013, I had a telephonic conference with Christopher Green,
6 counsel for Apple. During the call we discussed Apple's investigation as to the existence of any
7 log files [REDACTED] and whether Apple had produced
8 these files log files.

9 4. On November 6, 2013, at approximately 6:10PM (CST), I conducted another
10 telephonic meet and confer with Christopher Green, counsel for Apple. During the meet and
11 confer, we discussed Apple's investigation into the log files, the relief requested in GPNE's
12 motion, as well as documents that Apple would want filed under seal.

13 5. On the morning of November 7, 2013, I received an email from Apple's counsel
14 stating that Apple was seeking permission from Qualcomm to produce the baseband log files.

15 6. On November 7, 2013 at 4:26 PM (CST) my office sent a final version of GPNE's
16 motion to compel to our local counsel, Randall Garteiser, with instructions to format the motion
17 according to the applicable local rules and file it with the Court. When the motion was sent to
18 Mr. Garteiser, my understanding of Apple's position was that it needed Qualcomm's permission
19 to produce the log files.

20 7. According to my Outlook account, at 7:27 PM (CST), I received an email from
21 Apple's counsel stating that Apple had "received permission from Qualcomm to produce the 'log
22 files' and that the files "are now available for inspection" in Redwood City. Mr. Garteiser was
23 not copied on this email. I did not read this email until I arrived at work the following morning.

24 8. According to the ECF notice, GPNE's motion to compel was filed at 7:45 PM,
25 PST.

26 9. Attached to this Declaration as Exhibit A is a true and correct copy of an email
27 string between GPNE's counsel, Barry Bumgardner, and Apple's counsel, Christopher Green
28 with the subject "offer to pull down the MTC."

1 10. Attached to this Declaration as Exhibit B is a true and correct copy of
2 http://www.bestbuy.com/site/olstemplatemapper.jsp?_dyncharset=ISO-8859-1&_dynSessConf=-5854599473808615885&id=pcat17071&type=page&ks=960&st=categoryid%24pcmcat186100050005&sc=Global&cp=1&sp=-bestsellingsort+skuidsas&qp=harddrivesizerange_facet%3DSAAS%7EHard+Drive+Size%7E4TB+and+Up&list=y&usc=All+Categories&npr=15&fs=sas&iht=n&seeAll=&browsedCategory=pcmcat186100050005 (last visited on December 4, 2013)

8 11. Attached to this Declaration as Exhibit C is a true and correct copy of
9 <http://tech.fortune.cnn.com/2011/04/07/whats-12-petabytes-to-apple/> (last visited December 4,
10 2013)

11 12. Attached to this Declaration as Exhibit D is a true and correct copy of the rough
12 transcript of the November 14, 2013 deposition of Apple's Rule 30(b)(6) designee [REDACTED]
13 [REDACTED].

14 13. Attached to this Declaration as Exhibit E is a true and correct copy of email
15 correspondence spanning November 2, 2013 to November 7, 2013.

16 14. Attached to this Declaration as Exhibit F is a true and correct copy of the ECF
17 Notice for GPNE's Motion to Compel (Dkt. No. 117).

18 15. Attached to this Declaration as Exhibit G is a true and correct copy of email
19 correspondence spanning November 12, 2013 to November 13, 2013.

20 16. Attached to this Declaration as Exhibit H is a true and correct copy of email
21 correspondence dated November 15, 2013.

22 17. Attached to this Declaration as Exhibit I is a true and correct copy of an excerpt
23 from an test report produced by bearing bates number [REDACTED]

24 18. Attached to this Declaration as Exhibit J is a true and correct copy of excerpts from
25 3GPP TS 51.010-1 v.10.1.0.

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2 I declare under penalty of perjury in the laws of the Unites States of America that the
3 foregoing is true and correct. Executed at Redwood City, California, this 5th day of December,
4 2013.

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6 /s/ Barry J. Bumgardner
Barry J. Bumgardner
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